

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

SIDNEY ALLEN WORTHEN,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-04-976-W
)	
WILLIAM HULL, <i>et al.</i> ,)	
)	
Defendants.)	

**REPORT AND RECOMMENDATION CONCERNING
MR. WORTHEN'S REQUEST FOR CLASS CERTIFICATION**

Stating a desire to represent “all Oklahoma Inmates and Prisoners held in the custody of the Oklahoma Department of Corrections,” Mr. Worthen requests class certification on “propositions four and five” in the amended complaint. *See* First Amended Complaint, Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 Jury Trial Demanded by Judge or by Magistrate at pp. 1, 13 (Oct. 20, 2005) (Doc. 61). These propositions involve the alleged denial of court access. *See id.* at pp. 9-15. The request for class certification should be denied as moot.


The undersigned has recommended dismissal or summary judgment for the Defendants on propositions four and five of the amended complaint. *See* Report and Recommendation on the Claims Involving Messrs. Richard Kirby and Ron Ward at pp. 4-7, 10-18 (July 28, 2006) (Doc. 76). If the recommendation is adopted, the request for class

certification on these claims would become moot.¹ Accordingly, the Court should dismiss Mr. Worthen's request for class certification on grounds of mootness.

The parties can object to the present report and recommendation. Any such objection must be filed with the Clerk of this Court by August 18, 2006. *See* W.D. Okla. Local Civil Rule 72.1(a). The failure to timely object would foreclose appellate review of the suggested ruling on the request for class certification. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *cf. Marshall v. Chater*, 75 F.3d 1421, 1426 (10th Cir. 1996) ("Issues raised for the first time in objections to the magistrate judge's recommendation are deemed waived.").

The referral is terminated.

Entered this 28th day of July, 2006.



Robert E. Bacharach
United States Magistrate Judge

¹ *See Spaulding v. United Transportation Union*, 279 F.3d 901, 915 (10th Cir. 2002) (affirmance of summary judgment and dismissal for the defendants moots the plaintiff's challenge to denial of the request for class certification); *Rucker v. St. Louis Southwestern Railway Company*, 917 F.2d 1233, 1236 n.1 (10th Cir. 1990) ("The court has under advisement a motion for class certification which is rendered moot by the outcome of the summary judgment motions.").